

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
BEFORE THE STATE ENGINEER AND
CHIEF OF THE DIVISION OF WATER RESOURCES

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In the Matter of Application 15032 by Catherine O. Cramer to
Appropriate Water from Cramer Slough Tributary to Susan River
in Lassen County for Irrigation Purposes.

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Decision A. 15032 D. 779

Decided October 29, 1953

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In Attendance at Investigation by the Division of Water Resources
on April 8, 1953:

Leroy Cramer	Representing the applicant
Wm. Jenkins	Representing Jenkins Land and Livestock Company
Pierce McClelland)	Representing Tanner Slough Irrigation Association
Orlo Baily)	
Fred Nuckolls	Representing the protestants Nuckolls
L. C. Jopson)	Representing the State Engineer
Supervising Hydraulic Engineer)	
A. J. Vandenberg)	
Associate Hydraulic Engineer)	

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OPINION

Description of the Project

The application initiates an appropriation of 0.63 cubic foot per second, from March 1 to October 1, from Cramer Slough, a tributary of Susan River, at a point within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, T29N R 12E, MDB&M, for purposes of irrigation. The applicant proposes to divert by pumping from an off-channel sump and to convey the water so diverted through 800 lineal feet of 6" pipe operating under pressure and leading to the described place of use, a 30 acre pasture located mainly within the same quarter quarter section as the proposed point of diversion. According to the application the pump is to be 1000 gallons per minute in capacity. The applicant mentions no other water right or source of water supply.

Protests

The Rees T. Jenkins Land and Livestock Company protests the application for reasons that it explains as follows:

"The waters ... were adjudicated ... in November, 1938, at which time all waters available in that stream system were distributed among the various water users who had established water rights at that time. Since the time of the decree there have been no new waters added to the stream system.

"Susan River does not normally supply sufficient irrigation water for the present users to take care of irrigation for the entire season. More often there is very little left after the first of July. A few years, such as 1952, irrigation water was available in limited quantities throughout the season.

"Many of the water users had lands which were not under the irrigation system at the time of the court decree. Since that time some of them would like to have additional water. Modern type of pumping makes it possible for them to put water on lands that they couldn't water in the past. Application 15032 ... will necessarily have to come from the Susanville Stream system. Mrs. Cramer has not provided any additional storage for water, such as surplus runoff waters during the non-irrigation season

"It seems as though it might be setting a precedent. Other water users who have lands along the stream system for which no irrigation water is available could likewise file applications This might be feasible during years of surplus water. It most certainly is not feasible during years of water shortage. It seems as though any additional waters for irrigation ... should be new waters, either from wells or from storage

"In some instances there are sloughs and depressions....which hold water However, if these sloughs were pumped dry, or water pumped out of them it would tend to drain back into them waters from the surrounding lands and might affect other water users along the entire system.

"For the above reasons ^{we}/don't believe the application should be granted."

The protestant states that its diversion heads on the old channel of Susan River, that it has used water for at least 50 years and that its water right is based upon riparian ownership.

Tanner Slough Irrigation Association protests the application, claiming riparian rights to the use of water from Susan River and claiming use for the irrigation of some 6000 acres, extending back for many years. The protest contains the following statement:

"We recognize the fact that if this application is granted it is subject to all existing rights ... in the Susanville watershed. From a standpoint of theory it probably would not interfere with our water supply, but from an actual

standpoint it will. It is going to be difficult to administer such a right and determine when there is sufficient water to take care of all the present rights. We believe that those people who want additional water should obtain such water from additional storages, from wells and from runoff waters that otherwise would not be used."

Mr. and Mrs. (Fred and Neva) Nuckolls protest the application for reasons practically identical with those advanced by the other protestants. They represent themselves as riparian owners. They state that they divert from the old channel of Susan River and that they or their predecessors have used the water for irrigation for at least 60 years.

Answers

In answer to the protests the applicant writes:

"With reference to my application ... and the protest ... I would like to inform you that my application ... is not intended to interfere in any way with the water rights of the above parties.

"I intend to fully respect their water rights as described in the Susan River decree as being of higher priority than the right applied for and thereby will use water only during the early part of the year when surplus water would otherwise go to waste in Honey Lake.

"During most of the recent years there has seemed to be considerable surplus water available which would have been sufficient to give my lands ... at least one good irrigation in the spring.

"Since the existing water right for my ranch is presently under the supervision of the State Watermaster, it is anticipated that the watermaster will be able to let me know at any time that my use of water under the application would interfere with the earlier vested rights."

Field Investigation

The applicant and the protestants with the approval of the Department having stipulated to the submittal of the application and protests upon the official records of the Department, a field investigation was conducted on April 8, 1953, by an engineer of the Division. The applicant and the protestants were present or represented during the investigation.

Records Relied Upon

Application 15032 and all data and information on file therewith; Susan River Court Reference—Report on Water Supply and Use of Water on Susan River and Tributaries ... February, 1936; reports on watermaster service in Susan River Watermaster Service Area, seasons 1936 to 1952, both inclusive.

Information Secured by Field Investigation

The report of the field investigation of April 8, 1953 contains statements to the following effect:

Cramer Slough heads on and returns to the channel of Susan River. Tributary to the slough are about 30 square miles of lava plateau and mountain canyon of very poor water producing characteristics. Small reservoirs which fill only in years of normal precipitation control much of the runoff from this area. The flow of Susan River is the principal source of supply for Cramer Slough.

Flow into Cramer Slough is controlled by flashboard-equipped checks in the old channel of Susan River. These checks raise the water sufficiently to force needed amounts into Cramer Slough. Flow into the old channel of Susan River is also controlled by a gate-equipped culvert at the head of that channel. The old channel is usually regulated to flows of not over 20 cubic feet per second during times of ample water supply on Susan River. The flow is reduced as the flow of Susan River decreases depending upon requirements under vested rights.

In the spring prior to heavy irrigation use under vested rights a considerable amount of water is allowed to flow into the old channel and from thence into Cramer Slough and is available at the applicant's point of diversion. As irrigation use under vested rights becomes general, little more than drainage reaches Cramer Slough, and this is diverted by the Nuckollses and by the Jenkins Land and Livestock Company below the applicant's proposed diversion. The water in the slough after June 1 is usually inadequate to allow dependable diversion by the parties just mentioned.

The protestants all have rights to water from the Susan River Stream System and use water to the full extent allowed whenever it is available. Numerous other parties who failed to file protests also receive water from the source or from the tributary channels and sloughs which contribute water to the source.

Jenkins Land and Livestock Company and the Nuckollses divert from Cramer Slough below the applicant's proposed point of diversion. Tanner Slough Irrigation Association and others divert from Susan River below the confluence of Cramer Slough and Susan River and are benefited by any contribution from the slough to the river. Jenkins Land and Livestock Company and the Nuckollses feel that pumping from Cramer Slough as proposed would adversely affect their use and that since they are often unable to secure their full allotments of water, any temporary excess should be reserved for their use and should not be used for the development of new lands. In addition, they state that they have additional lands on which water could be used, but have refrained from developing such lands because of the often inadequate water supply. Such being the case, they can see no purpose in allowing someone else to proceed.

Representatives of the Tanner Slough Irrigation Association stated that although in some years water is wasted from Susan River into Honey Lake, in practically every year a shortage occurs by early May and rarely is there any surplus after May 10. They also stated that they have spent money and time in trying to develop supplemental water for use when shortages occur and can see no purpose in issuing a permit which would aggravate their problem.

The physical conditions controlling the water supply in Cramer Slough prevent any large flows from occurring therein except

in years of better than normal runoff from the poor water producing tributary area. As a result, unappropriated water usually is not present at the proposed point of diversion except prior to the beginning of general irrigation under vested rights. After general irrigation is under way the flow in Cramer Slough is subject to the rights of the Jenkins Land and Livestock Company and of the Nuckollses (aggregating 2.60 cubic feet per second) as well as to the rights of parties on Susan River below the point where Cramer Slough discharges into that stream (aggregating about 140.92 cubic feet per second).

Other Available Information

Water rights within the Susan River system were adjudicated as a result of the action J. J. Fleming vs. J. R. Bennett et al., No. 4573, Superior Court, Lassen County. This case was referred to the Division of Water Resources in 1934, a field investigation was conducted by Division personnel and in due course Susan River Watermaster Service Area came into being. The Division has provided watermaster service during each irrigation season since 1941 and has compiled annual reports covering the work accomplished. Germane to the matter of Application 15032 are the definitions of individual water rights in the Fleming-Bennett decree, which was entered on April 18, 1940, and the records of flow of Susan River set forth in the reports on watermaster service. As stated in the preceding

paragraph decreed rights to divert from Cramer Slough aggregate 2.60 cubic feet per second, to divert from Susan River below Cramer Slough, 140.92 cubic feet per second. According to the reports on watermaster service, supply has been insufficient in every year of record except 1938 to satisfy decreed rights in full. The dates, according to those reports, prior to which supply was sufficient, subsequent to which it was insufficient, have been as follows:

<u>Year</u>	<u>Approximate Date</u>
1936	May 1
1937	May 1
1938	No shortage
1939	April 20
1940	June 15
1941	June 16
1942	June 30
1943	May 15
1944	May 15
1945	May 1
1946	May 1
1947	Short throughout season
1948	July 1
1949	June 1
1950	May 15
1951	May 22
1952	July 10

The median date, i.e. the date to which supply was as often enough to satisfy decreed rights as not, within the 17 years of watermaster record, was evidently about May 15. Flow exceeded the aggregate of decreed rights until June 1 in 7, until June 15 in 6, and until July 1 in 3 of the same 17 seasons.

The monthly mean discharges of Susan River above Ramsey Ditch from April 1 to September 30 of the same 17 years, according

to the reports of watermaster service, have been as follows, the tabulated figures representing estimated natural flow in cubic feet per second. The station scales approximately 5 miles upstream from the applicant's proposed intake.

<u>Year</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	<u>September</u>
1936	185	102.8	47.3	9.87	4.39	4.4
1937	220	124.9	26.7	6.77	4.45	****
1938	1555*	1348	361	47.9	7.90	****
1939	38.7*	15.4	6.7	2.79	2.26	****
1940	366	190	26.2	11.5	6.46	6.15
1941	220	423	88.0	19.8	14.5	11.2
1942	400.5	303.1	154	25.5	19.5	13.6
1943	266 *	144.6	68.1	21.5	17.7	15.9
1944	155.1*	150.2	58.2	19.18	13.46	11.62
1945	158.3*	99.8	37.1	16.2	7.1	4.5 *
1946	215.5*	100.4	28.9	14.7	8.86	5.75*
1947	73.2*	48.7	14.6	3.8	3.1	4.4*
1948	188.9*	157.1	122.1	13.5	5.99	4.8*
1949	187.7	79.5	16.4	5.86	2.9	2.8
1950	205	134	50	8.4	4.9	5.3
1951	183	129	30	8.9	6.1	5.1
1952	****	****	220	37.4	12.4	13.1
Average	289	243	79.7	16.1	8.4	7.8

* Partial record

**** No record

In the court judgment and decree (Action No. 4573, above mentioned) it is stated, among other things:

"It is hereby ordered ... as follows:

* * *

"The ... report of referee ... is affirmed and adopted as the basis for the decree of this court determining and establishing the several rights in and to the use of the waters of Susan River and its tributaries

* * *

"All of the water users in the entire watershed of said Susan River are involved

"The rights ... fall into four classifications, to wit:

- '(a) Those of independent character.
- '(b) Those which derive their water supply from Willow Creek
- '(c) Those upon Gold Run Creek, Lassen Creek, Piute Creek and their tributaries.
- '(d) Those upon Susan River and upon its tributaries above Piute Creek as hereinafter set forth ... in Schedules 5 and 6"

Schedules 5 and 6 mentioned in the passage last quoted, themselves a part of the decree, list the names of the water users within classification "d", the acreage each irrigates, the diversion from which each is served, the source on which that diversion heads and the allotment of water to each user under the decree. Allotments under Schedules 5 and 6 aggregate respectively 134.67 and 65.15 cubic feet per second.

Summary and Conclusion

The data indicate that the flow of Susan River is sufficient to supply demand under decreed rights on that stream, on average, until about May 15. Supply sometimes fails earlier and sometimes lasts longer. Cramer Slough, from which the applicant seeks to appropriate 0.63 cubic foot per second from April 1 to October 1, is a ramification of Susan River. When supply in Susan River and its ramifications exceeds demand under decreed rights the excess may be considered subject to

appropriation. In Cramer Slough supply reportedly is insufficient after June 1 to allow dependable diversion under decreed rights. Diversions from the Susan River stream system including Cramer Slough are under watermaster supervision.

From the information summarized it is concluded that unappropriated water ordinarily exists in Cramer Slough until May 15 but does not ordinarily exist during the remainder of the usual irrigation period.

It is the opinion of this office that such water may be taken and used in the manner proposed by the applicant without injury to the protestants or other downstream users and that Application 15032 should therefore be approved, subject to the usual terms and conditions, with diversions thereunder limited to periods from March 1 to May 15 of each season.

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ORDER

Application 15032 for a permit to appropriate water having been filed with the Division of Water Resources as above stated, protests having been filed, stipulations having been submitted, a field investigation having been conducted and the State Engineer now being fully informed in the premises:

IT IS HEREBY ORDERED that Application 15032 insofar as it relates to diversion from about March 1 to about May 15 be approved and that a permit be issued subject to such of the usual terms and conditions as may be appropriate.

IT IS FURTHER ORDERED that authorization to divert under Application 15032 from about May 15 to about October 1 be denied.

WITNESS my hand and the seal of the Department of Public Works of the State of California this 29th day of October, 1953.



A. D. Edmonston
A. D. Edmonston
State Engineer